Reg. No. 1—M.

THE FORT ST. GEORGE GAZETTE.

Published by Authority.

No. 9.] MADRAS, TUESDAY EVENING, MARCH 30, 1920. [PRICE, 6 *pies.*

Part IV.—Proceedings of the Madras Legislature.

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SUPPLEMENT —
Madras Bill No. 2 of 1920.—A Bill to amend the Madras Court of Wards Act, 1902, and the Madras Impartible Estates Act, 1904.—Kanarese.

Acts of the Governor of Fort St. George in Council.

The following Act of the Governor of Fort St. George in Council received the assent of the Governor on the 1st December 1919 and that of the Governor General on the 24th December 1919, and it is hereby promulgated for general information :—

MADRAS ACT No. II OF 1920.

An Act to amend the Madras Village Courts Act, 1888.

[Madras Act of 1889.] WHEREAS it is expedient to amend the Madras Village Courts Act, 1888; It is hereby enacted as follows :— [Preamble.]

1. This Act shall be called the Madras Village Courts (Amendment) Act, 1919. [Short title.]

[Madras Act of 1889.] 2. Unless otherwise expressly stated, the words "section", and "sub-section" in this Act, shall mean section, and sub-section, respectively, of the Madras Village Courts Act, 1888. [Interpretation clause.]

Amendment of section 1 of the principal Act.

3. In sub-section (1) of section 1 all the words after the words "and shall come into force at once" shall be omitted.

Amendment of section 5.

4. (1) In section 5 for the definitions of "village court" and "village munsif" respectively, the following shall be substituted, namely :—

"Village court" means the court of a village munsif appointed under section 7 or a panchayat court established under section 9.

"Village munsif" means the judge of the court of a village munsif established under this Act and except in sections 7 and 16 includes the president of a panchayat court.

(2) In the same section for the definitions of "District Judge" and "District Munsif," the following shall be substituted, namely :—

"District Munsif" means the District Munsif within the local limits of whose jurisdiction the village court is situated :

Provided that if the village is not situated within the local limits of the jurisdiction of any District Munsif, the Subordinate Judge, or if there be no Subordinate Judge, the District Judge, within the local limits of whose jurisdiction the village is situated, shall be deemed to be the District Munsif :

Provided further that if in any area the District Munsif does not exercise small cause jurisdiction and a separate Court of Small Causes has been established the Judge of such Court shall be deemed to be the District Munsif.

(3) At the end of the same section the following definitions shall be added, namely :—

"Prescribed" means prescribed by rule made by the Governor in Council under this Act.

"Sign" with its grammatical variations and cognate expressions shall, with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions.

'Panchayat court.'

5. For the words "bench of more than one judge" and the word "bench" wherever either expression occurs in the Madras Village Courts Act, 1888, the words "panchayat court" shall be substituted. Madras Act I of 1889.

Amendment of section 6.

6. In section 6 the last sentence shall be omitted.

Amendment of section 7.

7. In section 7 for the words "of the district subject to such rules as the Governor in Council may from time to time prescribe" the words "in the manner prescribed" shall be substituted. In the same section before the words "village munsifs", the words "In villages where there are no panchayat courts" shall be inserted.

Amendment of section 8.

8. (1) In section 8 between the words "village munsif" and the words "for incapacity", the words "or a member of a panchayat court" shall be inserted; and for the words "village munsif" at the end of the first sentence the words "village court" shall be substituted.

(2) In the second sentence of the same section for the words "suspending or removing a village munsif" the words "of suspension or removal" shall be substituted.

Substitution of a revised section for section 9.

9. For section 9 the following section shall be substituted, namely :—

"9. (1) The Governor in Council may, by order notified in the District Gazette, constitute a panchayat court, as hereinafter provided, for any village, group of villages or part of a village; and thereupon no court of a village munsif

appointed under section 7 shall exercise jurisdiction under this Act in any part of such area.

"(2) For every court so established the Collector shall determine the number of members, provided that such number shall not be less than five nor more than twelve;

"(3) Subject to such rules as may be made by the Governor in Council, the members of the panchayat court shall be appointed by election

"(4) Subject to such rules as may be made by the Governor in Council a member of a panchayat court shall hold office for a term of three years.

"(5) A panchayat court shall elect one of its members to be its president according to the rules prescribed.

In the absence of the president the members present and constituting the court shall elect from among themselves a president for the purposes of that sitting.

"(6) Three members of a panchayat court shall constitute a quorum, and the decision of the majority present shall be the decision of the court:

Provided that in the case of equality of votes the president shall have a casting vote.

"(7) The Governor in Council may, by order notified in the District Gazette, disestablish any panchayat court."

10. In section 13 for the words "rupees twenty" the words "rupees fifty" shall be substituted. Amendment of section 13.

11. In section 15 for the words "court of the village munsif" the words "village court" shall be substituted. Amendment of section 15.

12. In section 16 for the words "court of the munsif" the words "village court" shall be substituted and the section as so altered shall be numbered sub-section (1). The following shall be inserted as sub-section (2), namely:— Amendment of section 16.

"(2) When any member of a panchayat court is a party to, or personally interested in, any suit or proceeding before such court, he shall withdraw from the court during the hearing of such suit or proceeding and shall take no part in its determination."

13. In section 19 the words "under sections 13 and 15" shall be omitted. Amendment of section 19.

14. In section 20 the proviso shall be omitted. Amendment of section 20.

15. After section 20 the following section shall be inserted, namely:— Insertion of a new section after section 20.

20-A (1) If a suit which is triable by a village court is instituted in the court of a District Munsif, he may, unless sufficient reasons exist to the contrary, transfer it to the village court

(2) Where a District Munsif tries a suit which is triable by a village court and is of opinion that the suit ought to have been instituted in the village court, no costs shall be allowed to a successful plaintiff and a successful defendant shall be allowed his costs as between pleader and client.

16. Section 21 shall be numbered as sub-section (1) of section 21 and the following shall be added as sub-section (2), namely:— Amendment of section 21.

"(2) Pending disposal of any application under sub-section (1) the District Munsif may order a stay of proceedings in the village court."

17. In section 24 for the words "Any party to any suit before a village court may appoint by vakalatnama any person to appear and plead for him, but" the following words shall be substituted, namely:— Amendment of section 24.

"No legal practitioner, whether qualified or unqualified, shall be allowed to appear before a village court on behalf of any party to a suit or proceeding but any party may authorize a servant, gumasta, partner, relation or friend to appear and plead for him: Provided that".

18 In section 25 after the words "served on the defendant personally" the words "and his signature taken thereon" shall be inserted. Amendment of section 25.

19. In section 26 after the words "evading service of the summons" the words "or has refused to affix his signature to the summons" shall be inserted. Amendment of section 26.

20. In section 29 all the words that follow the words "on whose behalf it is issued" shall be omitted. Amendment of section 29.

21. In section 32 before the words "bring a fresh suit" the words "subject to the law of limitation" shall be inserted. Amendment of section 32.

Amendment of section 46.

22. In section 46 for the words " Each party shall be entitled to receive a copy of the decree upon application " the words " A copy of the decree shall then be delivered to each party in the prescribed manner " shall be substituted

Amendment of section 52.

23. In section 52 for the proviso the following shall be substituted, namely :— Act V of 1908.

" Provided that no property shall be liable to such attachment which is exempt from attachment under section 60 of the Code of Civil Procedure, 1908."

Amendment of section 73.

24. In section 73 the words " or contrary to law " in the third item of the first sentence of the section shall be omitted.

Suits pending at commencement of this Act.

25. Nothing herein contained shall apply to suits pending at the commencement of this Act in the courts of village munsifs appointed under section 7.

Addition of two chapters to the principal Act.

26. The following chapters shall be added to the Madras Village Courts Act, 1888, namely :— Madras Act of 1889.

" CHAPTER VIII.

" *Criminal jurisdiction.*

" 76. (1) The Governor in Council may, by order notified in the District Gazette, empower a panchayat court to take cognizance of and try all or any of the following offences when committed within the local limits of its jurisdiction :—

" (*a*) Offences punishable under sections 160, 277, 283, 290, 323, 334, 352, 358, 504 and 510 of the Indian Penal Code. Act XLV of 1860.

" (*b*) Offences punishable under section 379 of the Indian Penal Code in respect of property not exceeding ten rupees in value, when the offender has not been previously convicted of theft. Act XLV of 1860.

" (*c*) Offences punishable under section 426 of the Indian Penal Code when the loss or damage caused thereby does not exceed ten rupees. Act XLV of 1860.

" (*d*) Offences punishable under section 3, clauses (9), (11) and (12), of the Towns Nuisances Act, 1889. Madras Act III of 1889.

" (*e*) Any other specified offence under the Indian Penal Code or any special or local law which is punishable with fine only or with imprisonment for a term not exceeding six months only or with both. Act XLV of 1860.

" Provided that in respect of offences mentioned in clauses (*b*) and (*c*) the Governor in Council may extend the jurisdiction of a panchayat court to cases where the value of the property stolen or the loss or damage caused does not exceed twenty rupees.

" Explanation.—The offences mentioned in this section include abetments of such offences.

" (2) If a panchayat court finds an accused person guilty of any of the above offences, it may impose on him a fine not exceeding Rs. 15 :

Provided that in case of conviction of an offence under clauses (*b*) and (*c*) of sub-section (1) the fine may extend to twice the value of the property stolen or the amount of the damage caused.

" (3) The panchayat court may allow a reasonable time for the payment of the fine, or may order that the fine shall be paid by instalments ; but if the fine is not paid as directed, the court shall recover it in the same manner as if it were due under a decree under this Act. If in any case it appears to the court that the fine imposed cannot be recovered as aforesaid, it shall submit the case to the subdivisional magistrate, who may award such term of imprisonment as is authorized by law in case of such default ; provided that the term so awarded shall in no case exceed one week.

" (4) Subject to such rules as the Governor in Council may make in this behalf, the procedure to be adopted by panchayat courts in criminal trials shall be as follows :—

" The court need not record the evidence of the witnesses or frame a formal charge but it shall enter in the prescribed form the following particulars :—

" (*a*) The serial number.

" (*b*) The date of the commission of the offence.

" (*c*) The date of the report or complaint.

" (*d*) The names, parentage and residences of the complainant, the accused and the witnesses examined.

" (*e*) The offence complained of and the offence (if any) proved, and in cases coming under clauses (*b*) and (*c*) of sub-section (1) the value of the property stolen or the amount of the loss or damage caused.

"(*f*) The plea of the accused and his statement, if any.

"(*g*) The finding and, in the case of a conviction, a brief statement of the reasons therefor

"(*h*) The amount of fine imposed and

"(*i*) The date on which the proceedings terminated.

"(5) Except in accordance with rules framed by the Governor in Council no legal practitioner, whether qualified, or unqualified, shall be allowed to appear either for the complainant or for the accused.

"(6) If at any stage of the proceedings it appears to the court that the case is one which ought to be tried by a magistrate or if at the close of the trial the court is of opinion that the accused is guilty and that he ought to receive a punishment different in kind from, or more severe than, that which it is empowered to inflict, it shall submit the case to the Subdivisional Magistrate, who may transfer the case to his own court or to the court of a magistrate subordinate to him.

"(7) The District or Subdivisional Magistrate may, whenever he considers it necessary in the interests of justice, transfer any case pending before a panchayat court to his own court or to the court of any magistrate subordinate to himself or to any other panchayat court within his jurisdiction.

"(8) No appeal shall lie against any sentence or order passed by a panchayat court under this section, but the District Magistrate or Subdivisional Magistrate may set aside any conviction on the ground of corruption, gross partiality or misconduct on the part of the court, or on the ground that there has been a gross miscarriage of justice.

V of 1898. "(9) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a magistrate taking cognizance upon a complaint or police report of an offence cognizable by a panchayat court may, unless sufficient reasons exist to the contrary, transfer the case to the panchayat court having jurisdiction.

V of 1898. "77. (1) The provisions of section 403 of the Code of Criminal Procedure, 1898, shall apply to a village court.

"(2) Save as provided in sub-section (1) nothing contained in the said Code shall apply to a village court."

"CHAPTER IX.

"*Power to make rules.*

"78. (1) The Governor in Council may make rules to carry out all or any of the purposes of the Act.

"(2) In particular and without prejudice to the generality of the foregoing power such rules may—

"(*a*) regulate the appointments of village munsifs under section 7,

"(*b*) regulate the appointments or elections of presidents and other members of the panchayat courts and prescribe their qualifications and disqualifications,

"(*c*) regulate the meetings and proceedings of panchayat courts and the attendance of members thereof,

"(*d*) prescribe the manner in which panchayat courts may take cognizance of offences and the procedure to be followed by them in the trial of offences,

"(*e*) provide for the presentation, withdrawal and dismissal of complaints and the compounding of offences and prescribe the persons who may conduct a prosecution or represent the accused,

"(*f*) provide for the summoning and attendance of the accused and for the summoning and examination of witnesses in criminal cases,

"(*g*) prescribe as to criminal cases the forms of all registers, returns and processes, the manner in which such registers shall be maintained, the dates on which such returns shall be made and the officers to whom they shall be sent,

"(*h*) provide for the service of process, the execution of decrees and the recovery of fines,

"(*i*) provide for the receipt and custody of all documents and records by or on behalf of panchayat courts and for the grant of copies of decrees and other records, and

"(*j*) provide for the levy of fees for the service of process, the execution of decrees and the grant of copies.

"(3) All rules made under this section shall be published in the *Fort St. George Gazette* and upon such publication shall have effect as if enacted in this Act."

Repeal.

27. The enactments specified in the schedule hereto annexed are hereby repealed to the extent mentioned therein.

SCHEDULE.

Number and year.	Subject.	Extent of repeal.
Madras Regulation V of 1816.	The Madras Village Panchayats Regulation, 1816.	The whole regulation.
Madras Regulation XI of 1816.	The Madras Village Police Regulation, 1816.	The last 45 words of clause first of section 10, i.e., the words beginning with "or if" and ending with the words "six hours".

F. J. RICHARDS,
Acting Secretary to Govt., L. & M. (Legislative) Dept.

The following Act of the Governor of Fort St. George in Council received the assent of the Governor on the 15th February 1920 and that of the Governor-General on the 5th March 1920, and is hereby promulgated for general information :—

MADRAS ACT No. III OF 1920.

An Act to validate the marriage celebrated by the Rev. S. Isaac between William Joseph Preston and Catherine Henrietta Ireland.

WHEREAS doubts have arisen as to the validity of the marriage celebrated by the Rev. S. Isaac between William Joseph Preston and Catherine Henrietta Ireland and it is necessary to remove the same ; It is hereby enacted as follows :— Preamble.

1. The marriage of William Joseph Preston and Catherine Henrietta Ireland shall not be deemed invalid by reason only of the fact that the Rev. S. Isaac who celebrated the same was not duly licensed under section 6 of the Indian Christian Marriage Act, 1872, to solemnize it. Validity of the marriage between William Joseph Preston and Catherine Henrietta Ireland.

F. J. RICHARDS,
Acting Secretary to Govt., L. & M. (Legislative) Dept.

MADRAS : PRINTED AND PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.